

REMARKS

In the Office Action, claim 31 is objected to for having informalities. Claims 17-25, 27-31, and 33 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2003/0014122 to Whiteside ("Whiteside").

In this response, claim 31 is amended. No new matter has been added. Claims 17-25, 27-31, and 33 are now pending. Claims 1-16, 26, and 32 were previously cancelled without prejudice or disclaimer of the subject matter recited therein.

Reconsideration of the application in view of the amendments and following remarks is respectfully requested.

Objection to the claim 31:

Claim 31 is objected to for having informalities. Specifically, the Examiner indicates that the phrase "includes a polyethylene" recited in claim 31 contains a typographical error. To address the objection, Applicants have amended claim 31 merely to delete "a," thus correcting the typographical error.

Withdrawal of the objection to claim 31 is respectfully requested.

Rejections to claims 17-25, 27-31, and 33 under 35 U.S.C. §102(e):

Claims 17-25, 27-31, and 33 are rejected under 35 U.S.C §102(e) as anticipated by U.S. Patent Publication No. 2003/0014122 to Whiteside ("Whiteside").

Whiteside describes an orthopedic device for total joint replacement. The device includes a polymer liner 27 that is secured to a recess 17 in a metal tray 3 through a snap-lock arrangement. The object of the arrangement described in Whiteside is to form a continuous seal integrally formed on the liner for continuously sealing the liner with respect to the tray thereby to prevent the migration of joint fluid and other debris from the tray to the bone structure. Paragraph [0011]. The dimensioning of the liner 27 and recess 17 are selected so that, "at body temperature, as installed in the patient, the liner will have a "snug fit" within the tray recess so as to prevent movement of the liner with respect to the tray and so as to prevent wear and deformation of the liner." Paragraph

[0042]. "The desired snug fit of liner 27 and recess 17 also aids in preventing rocking or relative movement between the liner and the tray." Paragraph [0042].

Independent claim 17 recites an artificial joint comprising a joint plateau having a recess including a first dimension and a joint overlay having a projection corresponding to the recess and a second dimension larger than the first dimension at a body temperature of the patient, wherein:

at least one of the second dimension and the contact area is determined such that fixation forces exerted on the projection at the body temperature create a state of stress in at least one of the joint overlay and the joint plateau, the state of stress improving at least one of a load-bearing capacity and a durability of the artificial joint....

As described in the specification of the present application, the "state of stress" that is created is "optimally selected in such a way that they counteract the forces exerted by loads." See Specification, ¶[0009]. Rather, it is a "specific state of pressure," that "can be adjusted in terms of its magnitude and/or direction so as to attain an optimal adjustment of the joint to the patient and to her/his individual requirements." See Specification, ¶¶[0010]-[0011].

It is respectfully submitted that Whiteside does not disclose at least these features. Instead of teaching a projection having a dimension larger than the corresponding dimension of the recess, Whiteside teaches making those dimensions essentially the same so as to achieve a "snug fit" at body temperature of the patient. The purpose of achieving a snug fit, according to Whiteside, is to "effectively prevent toggling, rocking, or slipping of the liner." See Whiteside, paragraph [0015]. There is no suggestion anywhere in Whiteside for dimensioning the projection larger than the recess at body temperature so as to achieve the specific state of stress levels as recited in claim 17. Thus, Whitehead's general teaching of a "snug fit" for the purpose of preventing relative movement between the two joint parts in a snap-lock connection is fundamentally different from the specific recitations of claim 17 that the projection be dimensioned "larger than" the recess such that fixation forces create a state of stress in one or both parts of the joint sufficient to improve the load-bearing capacity or durability of the artificial joint.

Independent claim 33 recites features similar to those discussed above with respect to claim 17, and Applicants respectfully submit that Whiteside likewise fails to disclose those features as well.

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CONCLUSION

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